

ORDINANCE NO. 05-07

AN ORDINANCE OF THE TOWN OF SOUTH PADRE ISLAND, TEXAS, AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES FOR THE TOWN OF SOUTH PADRE ISLAND (DUNE PROTECTION, BEACH RENOURISHMENT, AND BEACH ACCESS PLAN) IMPLEMENTING PROVISIONS) TO ALLOW AN EXCEPTION TO CONSTRUCTION SEAWARD OF THE HISTORIC BUILDING LINE; PROVIDING FOR SEVERABILITY AND REPEAL OF CONFLICTING ORDINANCES; PROVIDING A PENALTY NOT TO EXCEED \$500.00 FOR EACH OFFENSE; AND AUTHORIZING PUBLICATION IN CAPTION FORM.

Whereas, the Beach and Dune Task Force has recommended approval of the proposed amendment to the *Dune Protection, Beach Renourishment, and Beach Access Plan* with Implementing Provisions which allows an exception to construction seaward of the Historic Building Line for Lots 1, 2, 3, & 4 of Block 156 at their January 24, 2005 meeting; and

Whereas, the Board of Aldermen has received the recommendation and justifications of the Beach and Dune Task Force regarding this matter; and

Whereas, the Board of Aldermen has provided a sixty (60) day review and comment period to the General Land Office and the Office of the Attorney General regarding the proposed plan, as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF SOUTH PADRE ISLAND, TEXAS:

SECTION 1: Chapter 22 of the Code of Ordinances for the Town of South Padre Island is hereby amended and republished in its entirety as more fully set forth in Exhibit "A" hereto attached.

SECTION 2: This Ordinance repeals all portions of any prior ordinances or parts of ordinances of the Code of Ordinances in conflict herewith.

SECTION 3: Any violation of the above-amended Chapter 22 of the Town of South Padre Island may be punished by a fine not to exceed Five Hundred Dollars (\$500.00) for each offense, for each day such offense shall continue, and the penalty provisions of Section 21-1 of the Code of Ordinances is hereby adopted and incorporated for all purposes.

SECTION 4: If for any reason, any section, paragraph, subdivision, clause, phrase, word, or provision of this Ordinance shall be held unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phase, word, or provision of this Ordinance, for it is the definite intent of this Board of Aldermen that every section, paragraph, subdivision, clause, phrase, word, or provision, hereof be given full force and effect for its purpose.

SECTION 5: This Ordinance shall become effective when published in caption or summary form according to law.

PASSED, APPROVED, AND ADOPTED on First Reading, this 20th day of April 2005.

PASSED, APPROVED, AND ADOPTED on Second Reading, this 4th day of May 2005.

ATTEST:

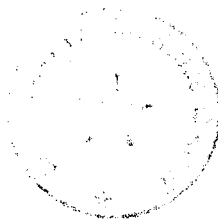

JOYCE ADAMS, City Secretary



TOWN OF SOUTH PADRE ISLAND


ROBERT N. PINKERTON, JR., MAYOR

Dated 04/11/05



Town of South Padre Island

Dune Protection, Beach Renourishment, and Beach Access Plan

HISTORY.

1959 The 2nd called session of the 56th Texas Legislature passed the **Texas Open Beaches Act** which guaranteed the public's right to use the beaches.

1973 The 63rd Texas Legislature passed and enacted the **Dune Protection Act**, which allowed the Commissioner's Court of any county bordering the Gulf of Mexico and North of the Mansfield Ship Channel that has a barrier island or peninsula to establish a dune protection line on the Gulf Beach (Only Nueces and Brazoria counties established Dune Protection Lines) and the **Coastal Public Lands Management Act of 1973**, which set the stage for how, by whom, and for whom coastal public lands will be managed.

July 25, 1979 The Town of South Padre Island Board of Aldermen pass Resolution No. 91 which set forth the Town's policy in regards to the enforcement by the Office of the Attorney General, under the direction of Mark White, of the Open Beaches Act, the Dune Protection Act, and other state and federal agencies' control of the Laguna Madre.

September 3, 1981 Letter from John W. Fainter, Jr., First Assistant Attorney General, representing the State of Texas written to then-Mayor Glen McGehee, establishing a building line, commonly referred to as the Historic Building Line, for the Town of South Padre Island Beachfront Construction that would provide a minimum of two hundred feet of open beach above the mean low tide line according to then available data. The letter stated that the Attorney General could review the line and change it to ensure the protection of the State's open beaches. The line was located on a map (drawn by Chas R. Haile Associates, Inc., Consulting Engineers, Houston, Texas City, Corpus Christi, Nederland, and is dated March 1981) provided by the Texas Attorney General and is on file with the Public Works Department of the Town of South Padre Island.

1989 At the request of the 71st Texas Legislature, the General Land Office began coordinating the development of a comprehensive coastal management plan.

February 1991 The General Land Office, under the leadership of Garry Mauro, submits their Texas Coastal Management Plan to the 72nd Texas Legislature recommending that the Dune Protection Act be amended.

June 7, 1991 Sections 61 & 63 of the Texas Natural Resources Code (i.e. the Open Beaches Act and the Dune Protection Act) were amended, requiring local governments along the entire Texas Coast to submit to more rigorous beach regulations as well as to develop and implement a Dune Protection Line, and Beach and Dune Management Plans.

September 9, 1991 The Cameron County Commissioner's Court delegated to the Town the authority to establish and administer the dune protection line, and to implement a Dune Protection and Beach Access Plan within Town corporate municipal limits.

September 18, 1991 The Town of South Padre Island Board of Aldermen passed a Resolution establishing the Town's Beach and Dune Task Force, whose charge it is to carry forth the State's Coastal Management Plan.

November 11, 1991 First meeting of the Town of South Padre Island Beach and Dune Task Force.

September 21, 1992 The first draft Dune Protection Ordinance was recommended for approval by the Beach and Dune Task Force of the Town of South Padre Island.

October 13, 1992 The Town of South Padre Island Board of Aldermen approved, on second reading, the first draft of the Dune Protection Ordinance 161 - ***Dune Protection and Beach Access Plan*** (i.e. Chapter 22 of the Town's Code of Ordinances) and forwarded it to the GLO for review and approval.

August 9, 1993 The Town of South Padre Island Board of Aldermen approved, on second reading, the amended Dune Protection Ordinance 161A - *Dune Protection and Beach Access Plan* (i.e. Chapter 22) and forwarded it to the GLO for review and approval.

April 11, 1994 Ken Cross & Susan Theisen of the Environmental Protection Division of the Office of the Attorney General write a letter to then-City Manager Jim Chisholm detailing the Town's Public Beach Access plans from an April 7, 1994 workshop.

May 18, 1994 The Town of South Padre Island Board of Aldermen approved, on second reading, the further amended Dune Protection Ordinance 161B - *Dune Protection and Beach Access Plan* (i.e. Chapter 22) and forwarded it, along with the Board-approved *Comprehensive Beach Management Plan* to the GLO for review and approval.

October 5, 1994 The Town of South Padre Island Board of Aldermen approved, on second reading, the further amended Dune Protection Ordinance 161C - *Dune Protection and Beach Access Plan* (i.e. Chapter 22) and forwarded it, along with the Board-approved and revised, *Comprehensive Beach Management Plan* to the GLO for review and approval.

January 9, 1995 The Town of South Padre Island Beach & Dune Task Force reviewed and recommended approval of the first *Beach and Dune Permit Application Guidelines*, an informational handout for applicants.

July 1995 The General Land Office approved and certified the Town's *Comprehensive Beach Management Plan*. This plan allows for the following special provisions within the eroding section of the Town's beach: Padre Beach Section VIII and North: 1) Beach renourishment; 2) the construction of retaining walls if the applicant submits some type of financial guarantee to secure the removal of the wall; 3) mitigation of critical dunes on a 1:1 basis; 4) swimming pools will be allowed, but will not be considered "impervious"; and 5) the Town will submit annual reports monitoring the shoreline as well as quarterly progress reports on beach renourishment efforts.

October 20, 1999 The Town meets with General Land Office staff, under the Direction of newly elected Commissioner, David Dewhurst, to discuss Town Beach and Dune concerns. This meeting prompts the request for comments to revise General Land Office Beach/Dune Rules as well as Town Beach/Dune Regulations.

November 22, 1999 The Task Force recommends changes to the Town Board of Aldermen concerning the Town's *Dune Protection and Beach Renourishment and Beach Access Plan*.

December 15, 1999 The Town responded to the GLO's request for comments on suggested amendments to the GLO Beach/Dune Rules, and gave preliminary approval to the proposed changes in Ordinance 99-20, amending Chapter 22, the Town's *Dune Protection, Beach Renourishment and Beach Access Plan*.

August 14, 2000 The Town is informed that the GLO understood the December letter and enclosures to be in response to requests for comments regarding GLO Beach/Dune Rules and not a formal request to update the *Town of South Padre Island Dune Protection, Beach Renourishment and Beach Access Plan*.

February 7, 2001 The Board of Aldermen for the Town of South Padre Island review and approve another draft of the *Town of South Padre Island Dune Protection, Beach Renourishment and Beach Access Plan* on which the Beach and Dune Task Force had been working since August 2000.

February 8, 2001 The Town sends a copy of the draft plan to the GLO and the Office of the Attorney General requesting legal and technical advise on the proposed plan as allowed under §15.3(o) of the Beach/Dune Rules.

July 11, 2001 The Town receives a response letter from the GLO regarding the proposed plan, stating their specific concerns and suggesting a meeting between Town representatives and State GLO staff.

August 15, 2001 The date of the Town's response to the July 11, 2001 GLO letter. The Town requests a meeting between Town representatives and State GLO staff.

November 8, 2001 A joint meeting between representatives of the Town and the GLO takes place here on the Island to view areas of concern along the beach as well as to discuss significant points within the proposed plan.

January 28, 2002 The Beach and Dune Task Force review and recommend approval of the revised draft of the *Town of South Padre Island Dune Protection, Beach Renourishment and Beach Access Plan*.

February 6, 2002 The Board of Aldermen approved, on First Reading, the revised draft plan and ordinance. Staff forwards a copy to the state agencies for review and comment.

May 16, 2002 The date of response from the GLO office expressing concerns with the Town's proposed plan that warrant further discussion.

June 26, 2002 The date of response from the Office of the Attorney General expressing concerns with the Town's proposed plan that warrant further discussion.

September 18, 2002 Receipt by the GLO of the revised *Town of South Padre Island Dune Protection, Beach Renourishment and Beach Access Plan* for technical review.

January 3, 2003 Jerry Patterson was sworn in as Land Commissioner of the Texas General Land Office.

February 20 & 21, 2003 The Town meets with representatives of the General Land Office to discuss the February 14, 2003 written comments from the GLO and other additional changes to the plan to facilitate State certification of the Town's plan.

April 28, 2003 The Beach and Dune Task Force recommend approval of the most recent draft with minor modifications.

May 7, 2003 The Board of Aldermen review and approve the revised *Town of South Padre Island Dune Protection, Beach Renourishment and Beach Access Plan*.

January 24, 2005 The Beach and Dune Task Force recommends the request to amend the *Town of South Padre Island Dune Protection, Beach Renourishment and Beach Access Plan* in order to allow the construction of a proposed retaining wall and townhouse development seaward of the Historic Building Line for Lots 1, 2, 3 & 4 of Block 156.

February 2, 2005 The Board of Aldermen vote in support of the plan amendment to build seaward of the Historic Building Line for Lots 1, 2, 3 & 4 of Block 156 as shown in a survey exhibit included within the plan.

RENOURISHMENT ACTIVITIES.

It was not until the late 1990's that the Town began significant beach renourishment efforts:

<u>Year</u>	<u>Material / source</u>	<u>Cubic Pay Yards</u>	<u>Total Cost of Project</u>	<u>Cost to EDC</u>
Feb. 1997	Dredge material / Brownsville Ship Channel	489,211	\$1,938,700	\$ 661,259
Feb. 1999	Dredge material / Brownsville Ship Channel	494,766	\$3,136,170	\$ 55,388
May 1999	Sand off Highway 100 North of Town	41,628*	TxDOT donated men & equip to clear rd.	\$ 22,565
Dec. 2000	Dredge material / Brownsville Ship Channel	366,886	\$2,277,893	\$ 177,314
Feb. 2001	Sand off Highway 100 North of Town	27,956*	TxDOT / GLO CEPRA	\$ 3,200
Jan. 2002	Sand off Highway 100 North of Town	23,895*	\$109,917 (\$4.60 / cu yd)	\$ 3,125
Nov. 2002	Sand off Highway 100	81,252*	TxDOT / GLO CEPRA	\$ 9,411

Dated 04/11/05

- Jan. 2003 North of Town

Nov. 2002	Dredge material / Brownsville Ship Channel	306,402 (331,037= in-place yardage)	\$1,097,900	\$ 183,090
Dec. 2004- Jan 2005	Dredge material / Brownsville Ship Channel	261,600 (???= in-place yardage)	\$1,495,000	\$ 84,525

* estimated yardages based upon Town count of 12 cubic yard trucks

The first renourishment effort in 1997 deposited sand on the northern portions of the Town beach 3.5 to 4.5 miles north of the Jetties between Padre South condominium complex north to the Suntide II condominium complex. The renourishment event in February of 1999 took place on the southern portion of the Town beach approximately 1.5 to 2.25 miles north of the Jetties between the Radisson Resort north to Padre Grand. The renourishment project in May 1999 occurred because TxDOT needed to clear the portion of Highway 100 north of Town that had been covered by beach sand that had blown over the road in order to allow property owners access to their property. This blown sand was loaded and deposited on the northern portion of the Town's beach from the Tiki and White Sands St. area south to the Inverness. The Town's portion of the costs involved paying for half of the dump trucks and for two of the four front-end loaders.

The fourth renourishment activity, a dredging that began in December 2000, deposited sand on the north end of the island from the Bahia Mar south to roughly Starlight Circle beach access. The Federal Government paid the bulk of the costs for this activity (75%), the remaining 25% was split between the GLO via a CEPRA fund (75% of the remaining 25%) and the Town (25% of the 25%). The fifth renourishment activity in February of 2001 again used sand that had blown over Highway 100 and deposited that sand in the northern portion of the Town's beach from the Tiki / Whitesands St. area south to the Inverness, overlapping slightly in the area of the recent dredging. In this particular beach renourishment activity, the Town was required only to pay for the rental of a front-end loader (\$3,200). TxDOT again used CEPRA funds the Town had received to pay for the cost of hauling the sand to the beach. The renourishment activity in January 2002 was hoped to have been another GLO / TxDOT partnership within the CEPRA program to move approximately 40,000 cubic yards of sand. However, the GLO could not finalize the necessary paperwork in time, and TxDOT cancelled the project after paying the total cost to move 23,895 cubic yards of sand, which was placed on the northern portion of the beach between the Tiki / Whitesands St. area south to the Inverness. The cost to the Town (EDC) for this last project was \$3,125 for the rental of one front-end loader.

In the fall of 2002 the Town began work on two renourishment activities. A cooperative partnership between the Town, Cameron County, the GLO through the CEPRA program, the Port of Brownsville, and the USACE facilitated the beneficial use of dredge material from the Brownsville Ship Channel during the months of November and December of 2002. This project deposited 331,037 cubic yards of material between Neptune Circle Beach access (Lighthouse Condominiums) north to Gay Dawn Circle Beach Access. Meanwhile, during the months of November 2002, December 2002, and January 2003, the Town worked closely with TxDOT and the General Land Office through a second CEPRA program project to move sand on Highway 100 onto the north end of the Town's beach, between the Inverness and the northern Town limits (La Quinta). These projects, combined, resulted in a noticeably wider beach on the north end of Town.

EXISTING CONDITIONS.

The most critical coastal management issues facing the Town involve erosion, beach nourishment, dune protection, and beach access. Erosion has long been an identified problem within the Town's four (4) miles of beachfront.

- ❖ 1.6 miles of the Town's beach are eroding at rates averaging 8 feet/year. This area corresponds with Block #62 north to Andy Bowie Park.
(University of Texas Bureau of Economic Geology, Open File Report 93-1).
- ❖ 2.4 miles of the Town's beach are accreting at rates averaging up to 2 feet/year. This area corresponds with Block #62 south to the Town's southern limits at Isla Blanca Park.

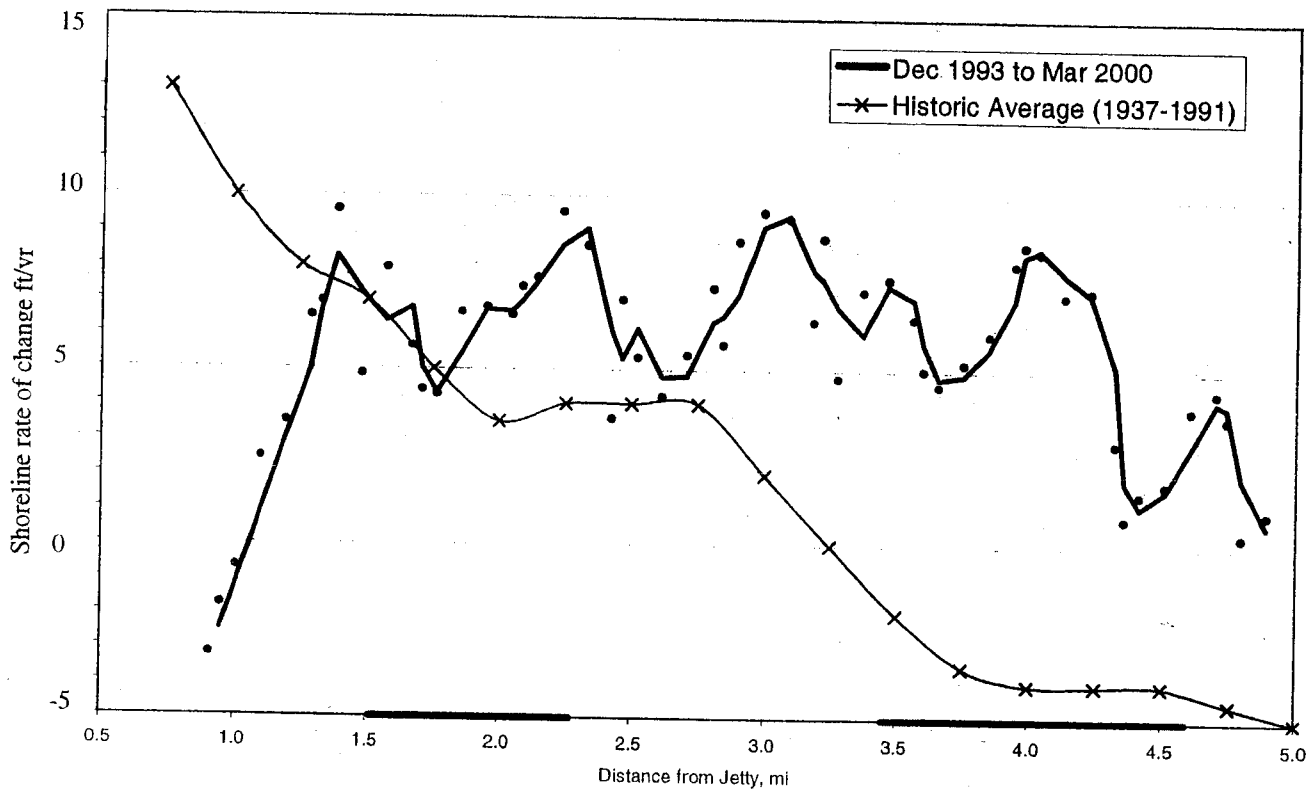


Figure 1. Shoreline rate of change over 4 mile segment of South Padre Island, December 1993 to March 2000.

Figure 1 above, taken from report J90239 prepared by Shiner Mosely and Associates, Inc. in April 2000, shows a comparison of the historic shoreline change along the four miles of beach on South Padre Island with the short-term erosion that has occurred from December 1993 to March 2000. In addition, Figure 1 shows the erosion rates at various locations along the Island in relation to two (2) beach renourishment efforts that took place.

In the historic sense, accretion has occurred to the South since the construction of the jetties, which have helped trap sand and keep it within the Padre Island sand system, and erosion has taken place at a higher rate beginning approximately 2.75 miles from the jetties. Short term erosion rates (Dec 1991 to March 2000), however, show a different trend: the very southern portion of the Town's beach is

eroding, the middle portion of the Island has seen sporadic accretion, and the northern-most portion of the Town's beach, although experiencing long-term erosion, the trend has reversed recently, at least since 1993, and accreted. This slowing of shoreline rates of change (i.e. erosion) and accretion of beach is assuredly due to the renourishment efforts that have taken place since 1997.

The general consensus is that the only realistic long-term solution, other than a building prohibition and retreat, is beach nourishment coupled with the building of dunes along the beachfront. The results of the Town's renourishment efforts, as shown by Figure 1 above, substantiate this consensus and show the positive results that beach renourishment efforts can provide. However, in planning these events, the Town must consider the tourist season and the type of visitors likely to be on the Island. The most desirable time of year for beach renourishment activities are the fall months of September through December, thereby dodging the spring and summer visitors, as well as the Winter Texan visitors who generally enjoy the Island during the months of January and February.

One practical source of beach nourishment material is from the maintenance dredging of the Brownsville Ship Channel which occurs about every two years:

- ❖ The distances from the dredge locations to the beach are within realistic pumping distances.
- ❖ The amount of dredge material within reasonable pumping distance appears to be more than required for nourishment – an average of 420,000 +/- cubic yards every 2 years or so.
- ❖ Maintenance dredging must occur and beach nourishment constitutes a positive use of this material, as compared to other alternatives.
- ❖ The dredge material is uncontaminated sand.
- ❖ The Federal Government has a program whereby they will pay 50% of the incremental cost of placing the material on the beach, if it can be shown that storm damage reduction benefits will offset the increased costs.
- ❖ The Town adopted Resolution No. 442 on December 1, 1993 supporting beach nourishment and requesting all Federal, State, and local entities to support, fund, and assist in expediting the nourishment of the beaches of South Padre Island, Texas.

The second practical source of beach nourishment material is from the sand that blows over Highway 100 north of Town.

- ❖ The distances from the location of the sand to the beach are realistic distances to haul sand and adequate access is available for the required machinery.
- ❖ The amount of sand material drifting over the highway varies from year to year, but has provided adequate volumes to replenish the northern portion of the Town's beach.
- ❖ A TxDOT mandate requires that public roads remain clear and beach nourishment constitutes a positive use of this material, as compared to other alternatives.
- ❖ The drift material is uncontaminated, beach-quality sand.

Detailed surveys of the beach within the Town's limits began in December 1993, and surveys of the beach have continued on a quarterly basis each year since. During the month of March, the entire length of the Town's beach is surveyed and in September, only 8000 feet of the Town is surveyed, as required by the agreement with the General Land Office. The first 1993 surveys revealed a number of characteristics:

- ❖ The beach topography has been extensively shaped by the regular scraping of debris to form "dunes". A substantial amount of sand is contained in such "dunes".
- ❖ Both topography and bathymetry differ greatly between accreting/stable areas and eroding areas.
- ❖ In December 1993, of the 4 miles of the Town's beachfront, approximately 2.8 miles (70%) had retaining walls. Of these 2.8 miles of retaining walls, 1.9 miles were located within accreting/stable areas, and 0.85 miles were located within eroding areas.

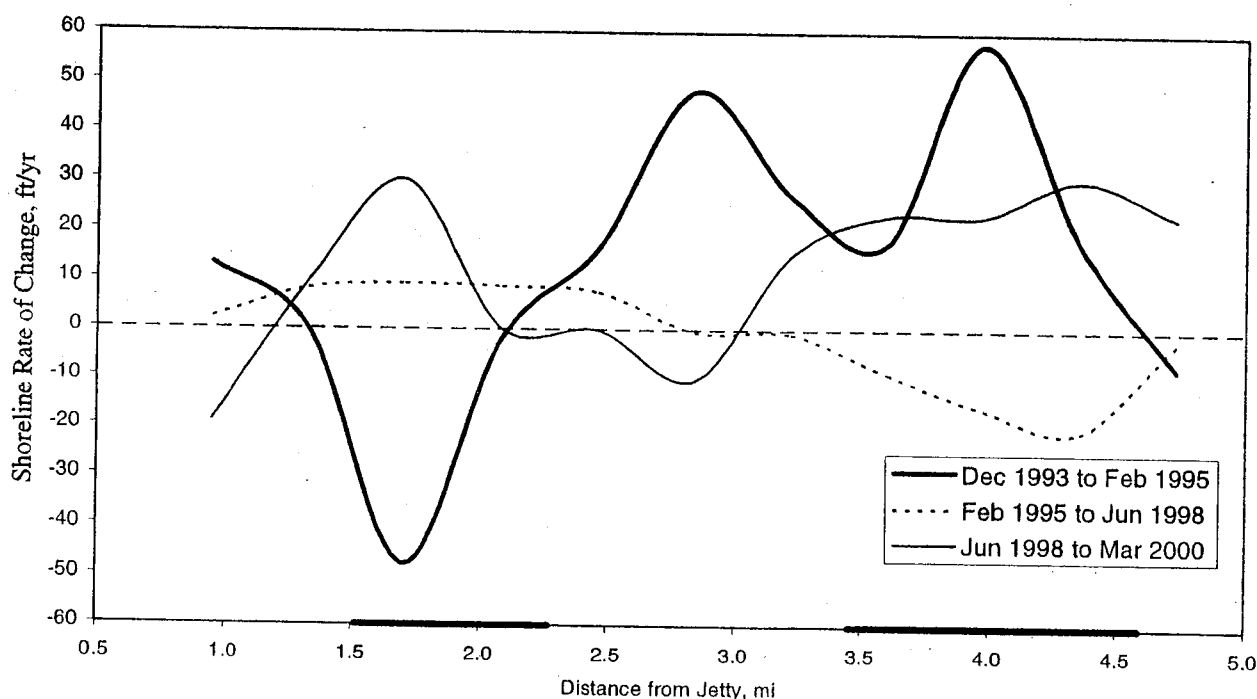


Figure 2. Shoreline Variability (rate of change) over 4 mile segment of South Padre Island.

Figure 2 above, also taken from report J90239 prepared by Shiner Mosely and Associates, Inc. in April 2000, shows the variability of the shoreline from December 1993 to March of 2000. "As can be seen in the figure, the rate of shoreline change is highly variable with high rates of accretion followed by high rates of erosion at the same location depending on the interval of time examined. Because of this high degree of variability, the average rate for the total survey period should not be the only rate considered in beach nourishment planning and design. These short-term undulations can cause the shoreline to periodically move within closer proximity to beachfront structures. The structures are then exposed to increased risk of storm damage, particularly along northern areas where the beach is

narrower and there is less of a buffer to dissipate wave energy.” (pg.4, Shiner, Mosely and Associates, Inc., **Report J90239**, April 2000.)

In October 2000 the Town had +/- 2775 linear feet of undeveloped beachfront property (~12 % of the 22,800 linear feet of beach) remaining. By January 2002, this number has diminished to +/- 2400 linear feet (i.e. 10.5%). The Town understands that the purpose of the General Land Office’s Beach Access/Dune Protection Rules (31 TAC §15.1 - 15.10) is to protect beach access and existing dunes from destruction caused by the development process, and when those conditions are threatened, the Town fully understands the need and rational to follow these regulations, but just a very small portion (10.5%) of the Town’s beachfront is undeveloped, and of that portion that is developed, most of it had been developed prior to the Town’s adoption of a Beach Management Plan in 1994.

The existing Beach and Dune Regulations, as well-intentioned as they are, do not adequately address the bulk of the Island’s need: an appropriate permitting process/procedure that takes into consideration the fact that most of the construction needs of the Town’s beachfront properties require only regular maintenance or landscaping activities – activities which do not require any form of disturbance east of the Town’s Historic Building Line, and would therefore have no impact on the dunes east of that line, the drainage of the property, or the public’s access to or use of the beach. The Town does not believe the original intention behind these regulations was to create a tedious permitting process for the maintenance of existing structures, but to protect the public’s right of free access to and along the beach, and the remaining undisturbed natural resources necessary in helping to protect and diminish the erosion of Texas beaches. The Town of South Padre Island strongly believes that this permitting process must balance the needs between the enhancement/construction of dunes with the property owners’ right to get over the dunes and to the beach as well as to have a clear view of the beach.

With the above in mind, and pursuant 31 TAC §15.3(a) of the General Land Office Beach/Dune Rules, which allows local governments to adopt and implement a beach/dune program consistent with the requirements of the Open Beaches Act, Dune Protection Act, and 31 TAC §§15.1-15.10 of the beach/dune rules, the Town of South Padre Island submits this revised *Beach Access, Dune Protection, and Beach Renourishment Plan* with attached local plan implementing provisions.

BEACH MANAGEMENT PLAN.

The Town’s beach and dune management plan has five primary components:

1. Beach Access.

The Town has provided twenty-four (24) public beach access points as defined in the Attorney General’s letter dated April 11, 1994 and has worked with the Texas Attorney General to develop a Beach Access Plan that includes both immediate and future action.

Parking Improvements. The Town will provide head-in parking at the following unimproved cul-de-sacs: Ocean Drive, White Cap Circle, Riviera Circle, Treasure Island Circle, Gay Dawn Circle, Sapphire Circle, White Sands St., and Harbor St.

At the following partially improved cul-de-sacs, the Town will complete the paving necessary for parking: Gulf Circle, and Sea Island Circle.

The Town has provided additional access improvements which include: a) the marking of the designated parking areas on the South end of Gulf Blvd.; b) the realignment of certain portions of Gulf

Blvd. where conflict has occurred between public parking and private development; and c) studies regarding possible additional public infrastructure improvements at cul-de-sacs or other public access points.

Signage. The Town will install signs at all 24 cul-de-sacs as improvements are made. Signs will indicate improvements (i.e. handicap access), and may be phased in over time.

Impacts of Future Development. Future growth, especially along Gulf Blvd. has the potential to impact public parking. The Town will insure that any new development shall not interfere with and/or diminish public beach access, public beach use, and/or public parking.

South End Access. Access easements exist between the end of Gulf Blvd. and Isla Blanca Park. The Town has cooperated with the Attorney General to identify the owners of these easements.

Dune Walkovers. The Town has built dune walkovers to improve the access at the following beach access locations:

Beach Circle	Seaside Circle (handicap)	Blue Water Circle (handicap)
Moonlight Circle	Bouganvillea Circle	Poinsettia Circle
Neptune Circle (handicap)	Starlight Circle	Aquarius Circle
Aurora Circle (stairs)	Good Hope Circle	Fantasy Circle

The following beach access areas do not currently have walkovers, but the Town may install them depending on funding availability and need:

Harbor St. Circle	Ocean Drive Circle	Gulf Circle
Sea Island Circle	Surf Circle	White Cap Circle
Riviera Circle	Treasure Island Circle	Daydream Circle
Gay Dawn Circle	Sapphire Circle	White Sands

On November 1, 1995, the Board of Aldermen adopted the following policy concerning private dune walkovers:

"Private dune walkovers attached to private property will be discouraged. Because a single- or two-family dwelling will not generate pedestrian traffic sufficient to warrant a dune walkover, single- and two-family dwelling will not qualify for private dune walkovers. For multiple-family uses, their proximity to a public beach access will be the primary consideration in evaluating the necessity for a private dune walkover. In all cases, properties and/or developments with direct access to a public beach access will be expected to utilize that access and a separate private dune walkover will not be allowed.

At their October 23, 2000 meeting, the Beach and Dune Task Force expanded this policy to include:

"Since the idea of building dune walkovers makes no sense unless dunes exist to walk over, the Task Force will not recommend approval of applications for dune walkovers unless or until significant dunes exist on the beach side of the property to walk over, OR until the applicant submits plans to construct dunes, with vegetation, on the property east of the Historic Building Line. Part of the dune construction plans must address the width and height of the constructed dune. The Task Force will review the dune construction plan with the applicant and give feedback and suggestions. The Task

Force further encourages partnering between property owners in regards to dune construction and / or dune walkover construction and maintenance.”

2. Dune Ridge Construction.

A study conducted by Robert A. Morton, Bureau of Economic Geology, The University of Texas at Austin: *Beach and Dune Conditions at South Padre Island, Texas; Assessment and Recommendations*; 1993; (pp 33-34), states that dune complexes ten to twelve feet (10' – 12') in height above sea level and seventy-five to one hundred feet (75' – 100') in width at the base should “survive most large storms and minimize the beach-front damage most frequently caused by direct wave attack”. Therefore, the Town proposes a plan consistent with this philosophy in an effort to preserve and protect private property and the public beach. To be proactive in this matter, the Town will undertake efforts in cooperation with the General Land Office, TxDOT, the USCE and /or any other agency or program, to construct a continuous dune ridge along the entire length of the Town.

The Town proposes the following general approach in regards to its Dune Ridge:

- ❖ Allow the construction of private retaining walls, but not seawalls, landward of the dunes and the Historic Building Line. The only exception to this rule is that construction seaward of the Historic Building Line may take place in the area shown on the survey labeled “Exhibit B” for Lots 1, 2, 3, & 4 of Block 156 Padre Beach Subdivision, Section X;
- ❖ Require financial guarantees by all those constructing private retaining walls behind the dunes;
- ❖ Construct a 75-100 ft wide dune system parallel to the shoreline and running the entire length of the Town. This dune ridge will be located between retaining walls within Town on the West, and the public beach on the East and average ten to twelve (10' – 12') feet in height above sea level;
- ❖ The Town will continue its program of raking/cleaning the beach, but should do so in a manner that will encourage and promote beach cleaning and dune construction while also coordinating this effort with property owners who appreciate this material. Long term remedies for beach cleaning rely on the cooperation between the Town and private property owners;
- ❖ Use a combination of existing sand in dunes presently seaward of existing walls and new beach nourishment material to build the dunes and to maintain a recreational beach seaward of the dunes;
- ❖ The Town promotes the recreational use of the beach and encourages, but does not require, these recreation activities to occur on the wet portion of the sand (recreational beach) east of the dune ridge and line of vegetation in an effort to protect the dunes and dune vegetation.
- ❖ The Town endorses the concept to enhance and improve the Town’s continuous dune line and will allow property owners to haul in beach quality sand to construct dunes in barren and low-lying areas. And since vegetated dunes are a primary component to dune ridge stabilization and beach renourishment, revegetation of bare dunes /newly

constructed dunes with indigenous dune vegetation is strongly encouraged. Both activities can be accomplished with a City Manager or designee approved permit as long as the proposed activity does not restrict or interfere with the public's access to the beach or use of the beach at normal high tide.

- ❖ The Town endorses the concept of Town-sponsored activities to alter existing dune shape and size where a complete dune ridge construction plan has been reviewed and approved by the Town, the General Land Office, and the Office of the Attorney General. In such cases, the plan must meet the following criteria: 1) the height of the existing dune(s) is/are greater than fifteen feet (15') in elevation; 2) an affirmative demonstration can be made that substantial dunes would likely form naturally in the area of the proposed dune ridge construction project; 3) the project demonstrates equal or better protection with the proposed dune ridge construction plan; 4) the adjacent littoral property owner(s) provide written consent for the proposed dune ridge construction project; and 5) the adjacent littoral property is in compliance with previously issued and approved Beach and Dune permits;
- ❖ In such instances that the shape and / or size of the existing dune(s) are altered: 1) the Town shall ensure that all sand seaward of the Historic Building Line remains in the beach/dune system; 2) the height of the altered dunes seaward of the Historic Building Line can be no lower than ten foot (10') in elevation; 3) the altered dune(s) must be vegetated with indigenous dune vegetation and watered to stabilize the dune(s); and 4) the project shall not restrict or interfere with the public's access to the beach or use of the beach at normal high tide.
- ❖ The Town encourages cooperation and partnering between adjacent property owners in the maintenance of dunes/ dune heights as well as the design of dune walkovers in an effort to reduce the need and number for walkovers at every beach-front structure; and,
- ❖ The Town shall provide local funding with the ½ cent EDC sales tax and other sources.

NOTE: All Dunes Seaward of the Dune Protection Line are Critical Dunes.

3. Beach Nourishment.

The Town will continue to undertake beach nourishment efforts, in cooperation with the General Land Office and the USCE under the Section 933 program and/or other appropriate program, to widen the beach in the eroding areas and to use a portion of these materials to construct a continuous dune ridge along the entire length of the Town. The Town, with the cooperation of TxDOT, will utilize the sand that drifts over Highway 100 as well as any other acceptable beach nourishment sources and resources.

The Historic trend of erosion (as seen in Figure #1) and the increase risk to beach-front structures associated with the temporary shoreline undulations (as seen in Figure #2), demonstrate that future renourishment projects should be concentrated north of Esperanza Street, along the northern portions of the Town's beaches. Placement of renourishment material south of Esperanza Street should probably be done if funding is not available for placement further north OR when funding is available

to renourish this area in addition to the northern beaches of the Town. However, the Town should continue to monitor the beach erosion pattern to assure that the southern portions of the Town's beaches are not neglected.

The Town recognizes that any long term remedy will have to rely on an ongoing Beach Nourishment Program that:

- ❖ Uses beach quality material from any and all acceptable sources.
- ❖ Since vegetated dunes are a primary component to dune ridge stabilization and beach renourishment, revegetation of bare dunes is strongly encouraged;
- ❖ Will require significant local funding even with the help of Federal Section 933, Coastal Erosion Planning & Response Act funds, and other federal grant programs; and
- ❖ The Town must comply with all applicable State and Federal laws.

The funding for Town Beach Renourishment projects may be provided by the existing ½ cent EDC sales tax; grants for which the Town may apply and receive; or, if required, additional revenue from the general fund and/or from a general obligation bond issue.

4. Local Planning Policies and Guidelines.

The Town's goal is to provide compliance under the state program, provide equal and consistent application of rules and regulations for all beachfront properties within the Town, and yet protect the private property owner from extravagant permitting procedures for regular maintenance and landscaping activities. In order to provide consistency regarding the local permitting procedure within Town limits, the Town will follow the additional policies and guidelines below:

Major Regulatory Provisions.

- ❖ Final authority over permits lies with the Board of Aldermen; however, the Beach and Dune Task Force has been established to make recommendations for Beach and Dune Protection Permits.
- ❖ The Dune Protection Line is designated as the east right-of-way of Gulf Boulevard and the extension north and south thereof or 1000 feet from Mean High Tide whichever is lesser.
- ❖ A Beach and Dune Protection Permit is required for activities seaward of the Dune Protection Line if such activities impact dunes or dune vegetation.
- ❖ Beach and Dune Protection Permits can be issued only if the action will not materially weaken any dune or dune vegetation, or increase flooding, etc. If damage cannot be avoided, then it must be minimized, and then any resulting damage must be compensated for by the permittee.
- ❖ Beach and Dune Protection Permits for construction are issued only if the proposed action will not interfere with the public access to the beach as provided for in the Open Beaches Act.

The special regulatory provisions under this Plan are structured to allow for compliance under the state coastal program.

Special Provisions within the Town as provided by this Plan and these Policies.

- ❖ No construction will take place seaward of the Historic Building Line, except as shown on the surveys labeled Exhibit "B" for Lots 1, 2, 3, & 4 of Block 156 Padre Beach Subdivision, Section X.
 - ❖ Property owners will be permitted to build retaining walls, but not seawalls, across the beach side of their property which may connect with adjacent walls subject to other requirements of State Law and the following conditions:
 - The property owner will be required to remove any wall that is exposed to substantial wave action for 20 days out of any 30 consecutive days except following major storm events (tropical storms, hurricanes, etc.) in which case, the owner will be given additional time to determine compliancy, as determined by the Town and State agencies;
 - Such removal will be at the property owner's expense;
 - The Town will require property owners to either agree to a deed covenant or other suitable financial guarantee acceptable to the Town to secure removal of the wall; and
 - If the property owner fails to remove the wall, the Town will remove the wall and assess the cost against the financial guarantee.
-
- ❖ Swimming pools will be allowed to be installed with concrete, but their footprint will not count against the 5% impervious area allocation.
 - ❖ Ecocrete, a pervious concrete, will be an additional allowable pervious material that beachfront property owners may use to reduce the amount of impervious surface within the dune protection area.
 - ❖ Along the East Right of Way of Gulf Boulevard and seaward, all dunes are critical.
 - ❖ Mitigation for any critical dune alteration will be required on a 1:1 basis with all material above the ten (10') foot elevation going East of the Historic Building Line (except for Lots 1, 2, 3, & 4 of Block 156, where the sand must be placed seaward of the retaining wall), preferably on the subject property.
 - ❖ The Town will strive to undertake and fund beach nourishment in this area approximately every two years.
 - ❖ The Town will continue to provide a semi-annual monitoring of the shoreline and beach (plus an additional post-hurricane monitoring) as well as progress reports on the beach nourishment efforts.
 - ❖ In order to facilitate a continuous dune line, the Town may sponsor activities to alter dune shape and size as detailed under 2. Dune Ridge Construction on pages 11 through 13 of this plan.

- ❖ A primary goal of this Plan is to create an expedited permitting process whereby the City Manager or Designee of the Town of South Padre Island has the authority to issue permits for certain designated beach/dune related items without having property owners go through the extensive review period normally required for new construction. None of the following permits may be issued by the City Manager or designee if the proposed activities will: 1) increase or alter the footprint of the existing structure; 2) increase the impervious surface on the property; 3) adversely affect dunes or dune vegetation; or 4) impact the public's access to the beach or use of the beach at normal high tide along the beach. This expedited permitting process would be available for the following activities:

- 1) Maintenance activities of existing properties between the east right-of-way line of Gulf Boulevard to the Historic Building line that result in no net increase in impervious cover. (i.e. Property Maintenance Permits)
- 2) Minor construction projects on pre-developed properties between the east right-of-way line of Gulf Boulevard to the Historic Building Line that result in no net increase in impervious cover, and no increase in the footprint of existing structures such as installation/construction of fences, open wooden decks, spas, swimming pools, landscaping features, installation of sprinkler systems. (i.e. Property Maintenance Permits)
- 3) Special Event permitting for activities that occur on the public beach. The duration of this permit will be for no greater than thirty (30) consecutive days and the permitting procedure will be compatible with Town Special Event ordinance(s) as well as with normal beach and recreation activities, and is intended to include weddings, anniversaries, and other occasion parties; Spring Break-type activities which may require the construction of stages and towers; the setup of tents and inflatables for outdoor displays; as well as other sport-related events. These permits can be issued for special events seaward of the Historic Building Line but only if the action will not materially weaken any dune or dune vegetation, block access to or on the beach, or increase flooding. Copies of Special Events Permits issued by the Town will be sent to the General Land Office and the Office of the Attorney General for their files.
- 4) Town-sponsored beach re-nourishment activities;
- 5) Retaining Wall/Walkway Maintenance Permits to move sand that has accumulated within ten (10') feet of an established retaining wall or dune walkover if it is determined that the proposed activity: a) is purely maintenance of existing facilities and not new construction; b) has no impact; and c) does not cause any sand to be removed from the beach.

5. Compliance with Local and State Regulations.

The Town will implement State mandated coastal management using the following approach:

All proposed actions within the Town will be handled in a manner consistent with this plan that will emphasize implementation of beach nourishment, required mitigation, and allow development in the interim with mandatory removal requirements if erosion reaches any walls. The Town will enforce the various components of this management plan by Ordinance - Chapter 22 of the Town of South Padre Island Code of Ordinances (attached) - as well as other rules and regulations referenced in the Plan and the Ordinance.

Responsibilities

The successful implementation of The Town's Plan will require the concerted, cooperative effort of both the public and private sectors.

Local Government

- Seek renewed acceptance and certification under the State Coastal Program.
- Provide substantial, ongoing funding commitment.
- Enforce the agreed-upon codes and requirements.
- Agree to remove any walls that are subject to substantial wave action 20 days out of any 30 days (except following a major storm event, such as a hurricane or tropical storm) and adopt an ordinance requiring all property owners to agree to such a deed covenant or other financial guarantee.

State Government

- Approve the overall approach, including the Master Planned approach within the Town limits.
- Monitor local activities to insure compliance with overall agreements.
- Provide technical assistance and support for the beach nourishment project.
- Provide maintenance material from all available sources.

Federal Government

- Provide maintenance material from all available sources.
- Provide matching funds under USCE Section 933 Program, and other federal grant programs.
- Provide technical assistance in the planning and design of the Town's Beach Nourishment Program.

Private Sector

- Recognize that under current state law, the Town must meet State requirements, and support the Town in its dealings with the State.
- Accept that there will be a change in beachfront developments.
- Realize that costs will go up.
- Work with neighboring property owners to build and maintain a continuous dune line.

CHAPTER 22

DUNE PROTECTION, BEACH RENOURISHMENT, AND ACCESS PLAN IMPLEMENTING PROVISIONS

Sec. 22-1. DEFINITIONS.

For the purpose of this ordinance, the following words and terms as used herein are defined to mean the following:

“Beach Access and Use Plan” shall be that plan that is adopted by the Town of South Padre Island pursuant to 61.015 of the Texas Natural Resources Code (i.e. this document).

“Beach & Dune Protection Permit” means a permit that is required for all construction activities East of the Dune Protection Line, and which requires the full review and approval of the General Land Office, the Office of the Attorney General, the Beach and Dune Task Force, and the Board of Aldermen.

“Beach and Dune Task Force” means an advisory body consisting of seven (7) individuals appointed by the Board of Aldermen whose task shall be to review and make recommendations to the Board of Aldermen regarding Beach and Dune Protection permit applications and the Beach Access Plan.

“Coppice Mounds” means the initial stages of dune growth formed as sand accumulates on the downwind side of plants and other obstructions on or immediately adjacent to the beach seaward of the foredunes. Coppice mounds may be unvegetated.

“Construction” means causing or carrying out any building, bulk heading, filling, clearing, excavation, or substantial improvement to land or the size of any structure. “Building” includes, but is not limited to, all related site work and placement of construction materials on the site; however, “Building” does not include maintenance activities. “Filling” includes, but is not limited to disposal of dredged materials. “Excavation” includes, but is not limited to removal or alteration of dunes and dune vegetation and scraping, grading, or dredging a site. “Substantial improvements to land or the size of any structure” includes, but is not limited to creation of vehicular or pedestrian trails, landscape work (that adversely affects dunes or dune vegetation), and increasing the size of the structure.

“Critical Dune Area” means those portions of the beach/dune system as designated by the Texas General Land Office, that are located within 1,000 feet of mean high tide of the Gulf of Mexico that contain dunes and dune complexes that are essential to the protection of public beaches, submerged land, and State-owned land, such as public beaches and coastal public lands, from nuisance, erosion, storm surge, and high wind and waves. Critical dune areas include, but are not limited to, the dunes that store sand in the beach/dune system to replenish eroding public beaches. Specifically within the corporate municipal limits of the Town of South Padre Island, Critical Dune Areas encompass the undeveloped portions of the Town East of the right-of-way of Gulf Blvd. and the extension thereof, or 1000 ft West of mean high tide, whichever is lesser.

"Damage to Dunes" means any unauthorized alteration to dunes or dune vegetation.

"Designated Beach Access Areas" means all dedicated street rights-of-way abutting the Gulf of Mexico and any other dedicated beach access route(s) that may be designated as a beach access area.

"Dune" means a natural or man-made emergent mound, hill, or other ridge of sand either bare or vegetated, located on land which is adjacent to the waters of the open Gulf of Mexico.

"Dune Enhancement Permit" means a permit issued by the City Manager or designee after the applicant has satisfied the Town that the proposed activities will only elevate dune height and/or promote dune vegetation propagation; will not negatively impact or alter existing dunes and/or dune vegetation; and is consistent with the Town's plan to create a continuous dune line.

"Dune Protection, Beach Renourishment, and Access Plan Ordinance" means Chapter 22 of the Town of South Padre Island Code of Ordinances.

"Dune Protection Line" means a line established within the Town of South Padre Island that shall be the East right-of-way of Gulf Blvd and a line extended therefrom to both the North and South boundaries of the Town, or a line 1,000 feet landward from mean high tide, whichever is lesser.

"Dune Ridge Construction" means those Town-sponsored and authorized activities involved solely with modifying the shape and/or size of dunes and/or dune vegetation east of the Historic Building Line. In those instances where dune heights and/or dune vegetation are proposed to be elevated and/or enhanced, the City Manager or designee is given the authority to permit the activity. However, in those instances where dune height(s) and/or dune vegetation is/are proposed to be reduced, the property owner will be required to submit an application for a Dune Ridge Construction Permit that will be reviewed and approved by the Town, the General Land Office, and the Office of the Attorney General.

"Erosion" is the wearing away of land or the removal of beach and/or dune material by wave action, tidal currents, littoral currents or deflation. Erosion includes but is not limited to horizontal recession and scour and can be induced by human activities.

"FEMA" means the Federal Emergency Management Agency of the United States Government. This agency administers the national Flood Insurance Program and the Flood Insurance Rate Maps.

"Foredune" means those dunes which offer the first significant means of dissipating storm generated wave and current energy ensuing from the open Gulf of Mexico. Because various heights and configuration of dunes may perform this function, no standardized physical description can be offered. However, where they occur, foredunes are distinguishable from surrounding dune types by their relative location and physical appearance. Foredunes are the first distinguishable, usually grass-covered stabilized large dunes encountered landward from the open Gulf of Mexico. Although they may be large and continuous, foredunes are typically hummocky and discontinuous, and are often interrupted by breaks and wash over channels.

“GLO” means the General Land Office of the State of Texas.

“Historic Building Line” shall mean that line established by the Texas Attorney General that indicates the buildable depth line for the construction of buildings or structures on or to the landward side of the line. The only exceptions to construction seaward of this line shall be that area designated in the survey labeled “Exhibit B” for Lots 1, 2, 3, & 4 of Block 156 Padre Beach Subdivision, Section X. ~~Such~~ The Historic Building Line is located on a map (drawn by Chas R. Haile Associates, Inc., Consulting Engineers, Houston, Texas City, Corpus Christi, Nederland, dated March 1981) provided by the Texas Attorney General and is on file with the Public Works Department of the Town of South Padre Island. The line was intended to retain a minimum of two hundred feet of open beach above the mean low tide line according to then available data and is subject to change by the Attorney General to ensure the protection of the State’s open beaches.

“Line of Vegetation” means the extreme seaward boundary of natural vegetation which spreads continuously inland.

“Maintenance (Maintenance Activities)” means those activities involved with repairing and/or renovating existing structures and those that do not alter or increase the foot print of existing structures, increase the impervious surface on the property, impact the public’s access to or use of the beach, or adversely impact dunes and/or dune vegetation. Maintenance activities include, but are not limited to: repairing or replacing siding, steps, roofs, windows, doors, fences, sidewalks, landscaping. Maintenance activities will require a Property Maintenance Permit.

“Manufacture” means something made from raw materials by hand or by machine. (i.e. anything man-made).

“Practicable”. In determining what is practicable, the Town shall consider the effectiveness, scientific feasibility, and commercial availability of the technology or technique, as well as the cost of the technology or technique.

“Property Maintenance Permit” means a permit which is required for all maintenance activities East of the Dune Protection Line that can be issued by the City Manager or designee without the necessary review of the General Land Office, Office of the Attorney General, Beach and Dune Task Force, and the Board of Aldermen.

“Public Beach” means any beach bordering on the Gulf of Mexico that extends inland from the line of mean low tide to the natural line of vegetation bordering on the seaward shore of the Gulf of Mexico, or such larger contiguous area to which the public has acquired a right of use or easement to or over by prescription, dedication, or estoppel, or has retained a right by virtue of continuous right in the public since time in memorial as recognized by law or custom. This definition does not include a beach that is not accessible by a public road or ferry as provided in Section 61.021 of the Texas Natural Resources Code.

“Retaining Wall” means a structure designed primarily to contain material and to prevent the sliding of land.

"Retaining Wall / Walkway Maintenance" means those activities that result in the raking and/or moving of debris, litter, trash and non-vegetated sand that has accumulated in designated walkways or within ten (10) feet of an established retaining wall or fence. Retaining wall / Walkway maintenance activities shall not be construed to allow excavation, trimming or disturbance of natural dune formations seaward of the dune protection line or the removal of sand, either temporary or permanent, from the beach/dune system within the Town.

"Retaining Wall / Walkway Maintenance Permit" means a permit which is required for all retaining wall/walkway maintenance activities East of the Dune Protection Line that can be issued by the City Manager or designee without the necessary review of the General Land Office, Office of the Attorney General, Beach and Dune Task Force, and the Board of Aldermen.

"Structure" includes, without limitation, any building or combination of related components constructed in an ordered scheme that constitutes a work or improvement construction on or affixed to land.

"Seawall" means a manufactured embankment located along a shoreline designed and engineered specifically to withstand flooding and wave action. Seawalls are not authorized east of the Town's Dune Protection Line.

"Town" means all area within the corporate municipal limits of the Town of South Padre Island, Texas.

"Washover" means local areas that channel hurricane flood tide across barrier islands and peninsulas into bay areas.

Sec. 22-2. GENERAL PROVISIONS

A. The Board of Aldermen does hereby establish the Beach and Dune Task Force whose charge it shall be to identify problems, develop goals and objectives, and develop a strategy plan to give advice and to make recommendations to the Board of Aldermen on the *Dune Protection, Beach Renourishment and Access Plan* and for the renourishment of the beach within the Town.

B. The Town of South Padre Island shall endeavor to protect the dune system and the foredune line within the corporate municipal limits of the Town. The foredunes offer protection and provide a buffer against storms, and will keep sand in the beach dune system.

(1) The Town, when considering any Beach and Dune Protection Permit, shall strive to avoid any damage and destruction to dunes, and in particular the foredunes and the foredunes ridge to the maximum extent practical. The foredunes and the foredune ridge are the primary focus of protection; however, they depend on the backdunes for preservation. The backdunes upon which the foredunes and the foredune ridge depend shall be protected by the same standard that protects the foredunes and foredune ridge. Therefore, damage and destruction to backdunes that actively exchange sand with and extend vegetation to foredunes and the foredune ridge shall be avoided to the maximum extent practicable.

(2) Every dune in the beach/dune system is linked to and dependent upon the other dunes for survival. Therefore, the backdunes that do not directly protect and preserve foredunes and the foredune ridge shall be protected to the maximum extent practicable.

(3) Hurricane storm surge is the most destructive element on the Texas coast. As this is particularly true for South Padre Island, where elevations are low and continuous dunes are lacking, it is recognized and established that the primary focus is to protect the foredune area and the foredune ridge. At the same time, protection of all dunes East of the Dune Protection Line will continue.

C. The Town of South Padre Island recognizes the importance of beach renourishment to stabilize and protect the public beach. The significance of tourism and its contribution to the economy reinforce the necessity to renourish our most precious resource--the beach. The Town of South Padre Island shall provide for the renourishment of our beach and appropriate the resources necessary to accomplish this project. The Town of South Padre Island shall develop a dune system in front of all properties to offer a protection from severe storm and beach erosion.

D. The Town of South Padre Island will not abandon, relinquish or convey any right, title, easement, right-of-way, street, path or other interest that provides existing or potential beach access, unless an alternative equivalent or better beach access is first provided consistent with the Town's *Dune Protection, Beach Renourishment and Access Plan*.

Sec. 22-3. BEACH AND DUNE TASK FORCE-APPOINTMENT

The Board of Aldermen may appoint seven (7) individuals to serve on the Beach and Dune Task Force. The appointment of individuals shall be for two (2) year terms, such terms to be staggered, and all terms shall expire on September 30 of the year said members term is scheduled to expire or until their successor is appointed. The Task Force shall elect one of the members as Chairperson, and the Chairperson may not make or second motions and may only vote to break a tie vote and if the Chairperson is absent the members shall appoint a temporary Chairperson to preside at the meeting. The Board of Aldermen may remove any appointee to the Beach and Dune Task Force at anytime. The initial members appointed by the Board of Alderman shall have three (3) members appointed for a one (1) year term and four (4) members appointed for a two (2) year term, and thereafter all appointments will be for a two year term.

Sec. 22-3.1 MEETINGS.

The Beach and Dune Task Force shall conduct all its meetings in a public setting and shall follow all of the procedures required by the Open Meetings Act in the conduct of all its business.

Sec. 22-3.2 GUIDELINES.

The Beach and Dune Task Force has adopted general guidelines as stated within this plan for the construction of a continuous dune line based upon a 1993 study conducted by Robert A. Morton: *Beach and Dune Conditions at South Padre Island, Texas; Assessment and Recommendations* (Bureau of Economic Geology, The University of Texas at Austin). Additional specifications and/or guidelines

for the preservation and enhancement of dunes shall be consistent with the above 1993 study as well as *Dune Protection and Improvement Manual for the Texas Gulf Coast* (as published and amended by the General Land Office).

Sec. 22-4. DUNE PROTECTION LINE

A. The Board of Aldermen does hereby establish a Dune Protection Line. Such line shall be the East right-of-way line of Gulf Boulevard and a line extended therefrom to both the North and South boundaries of the Town, or 1,000 feet landward of the mean high tide, whichever is lesser. The Dune Protection Line is applicable to all areas within the corporate municipal limits of the Town and no area seaward of the Dune Protection Line within the Town is exempt from this Chapter.

B. The Dune Protection Line is also depicted on the Historic Building Line Map dated March 1981, which Map is also the same Map furnished to the Town by the Office of the Texas Attorney General and is on file with the Public Works Department of the Town of South Padre Island, Texas. The map shows the East Right-of-Way line of Gulf Boulevard as that line is extended to both the North and South boundaries of the Town. The East Right-of-Way line of Gulf Boulevard is tied to specific monuments on Gulf Boulevard and the existing monuments are referenced to the Texas State Plan Coordinate System.

C. The Dune Protection Line is a "moving" line changing with shoreline changes, and subject to modification. The Dune Protection Line shall be reviewed at least every five (5) years to determine if the line is adequately located to achieve the purpose of preserving critical dune areas. In addition to the five-year review, the Town will review the adequacy of the Line within Ninety (90) days after a Tropical Storm or hurricane affects the beach within the Town limits.

Sec. 22-5. FOREDUNE LINE.

The Town of South Padre Island shall endeavor to enhance and/or establish a foredune line within the corporate municipal limits of the Town. Such line will offer protection and be used as a buffer against storms and will keep sand in the beach/dune system.

Sec. 22-6. TOWN PERMIT EXEMPTIONS.

The activity of the Town shall at all times be consistent with the Town's mission of preserving and enhancing the beach and public beach accesses located within the Town of South Padre Island. In order to promptly and adequately address the needs of the public, the Town of South Padre Island will not be required to obtain a permit for the following activities:

A. Cleaning and grooming of the beaches within the Town that does not damage dunes and/or dune vegetation.

B. Town designated public beach access dune walkover construction, clearing and maintenance activities.

C. Town-sponsored beach renourishment projects.

D. Town-sponsored dune ridge construction projects that solely involve bringing in more beach quality sand for dune ridge construction and/or the planting of indigenous dune vegetation neither activity of which adversely impact existing dunes or dune vegetation, or the public's access to or use of the beach.

E. The use of Town vehicles (police, public works or emergency vehicles) on the Beach.

Sec. 22-7. PERMITS AND APPROVALS REQUIRED.

A. An applicable permit is required for all construction, maintenance, dune management activities and/or retaining wall / walkway maintenance East of the Dune Protection Line. A permit must be obtained from the Town prior to any activity. Failure to acquire a permit prior to any construction activity East of the Dune Protection Line is subject to penalty as is or may be provided in this or any other ordinance of the Town. Such penalty for failure to acquire a permit when necessary can result in a fine, removal, restoration, and/or remediation orders.

B. Permits issued pursuant to this Chapter shall be accompanied by a permit fee established by the Board of Aldermen. The Board of Aldermen may establish and/or modify fees for the issuance of any permits mentioned within this Chapter 22 by resolution.

Sec. 22-8 CITY MANAGER OR DESIGNEE AUTHORIZED PERMITS.

A. The following permits under this Sec. 22-8 may be authorized directly by the City Manager or designee and are not required to be reviewed or approved by the Beach and Dune Task Force, the General Land Office, or the Office of the Attorney General. The City Manager or designee may authorize permits under this Section 22-8 only if the proposed activity will not:

- (1) increase or alter the footprint of an existing structure;
- (2) increase the impervious surface on the property;
- (3) adversely affect dunes or dune vegetation; and /or
- (4) obstruct the public's access to or use of the beach.

B. The City Manager or Designee may request whatever information as may be necessary to determine the extent and nature of the activities prior to approving such activity. Such information must include the name of the property owner and/or the owner's representative. An on-site inspection with the owner, owner's representative or the individual who will be responsible for undertaking the proposed activities of the permit may be requested by the City Manager or Designee.

C. The City Manager or Designee will determine the expiration date of the permit depending on the nature of the activity, but under no circumstance will the permit be applicable for greater than six (6) months from the original date of permit approval.

D. In the event that the City Manager or Designee denies an applicant's request, the applicant may appeal the decision to the Beach and Dune Task Force. In so doing, the applicant will need to submit to Town staff a copy of all information necessary to completely understand the nature of the situation for submission to the Task Force. The Task Force can then make a recommendation that will be forwarded to the Board of Aldermen for final review and approval.

Sec. 22-8.1 BEACH SPECIAL EVENTS PERMITTING.

The Town must approve all beach special events activities prior to the commencement of such activities. The Board of Aldermen or the City Manager may designate a Special Events period [length of time] and permits may be granted during such period for setting up temporary outdoor facilities both on beachfront properties and seaward of the Town's Historic Building Line established by the Attorney General of Texas. A Beach Special Events Permit is only valid for the specific Special Events period [length of time] and not for any other Special Events period. Each Special Events period requires a separate permit. These permits shall be granted with special conditions and requirements as the City Manager or his designee may believe is necessary to preserve the public beaches and the general health and safety of the users thereof. A copy of the permit issued by the Town will be forwarded to the General Land Office and the Office of the Attorney General for their files no later than five (5) days from the date the Town issued the permit. Any person desiring to set up any type of temporary facility during the Special Event period on the beach shall comply with the following:

- A. No facility or manufacture may be set up in a manner to destroy dunes and/or vegetation.
- B. No outdoor facility or manufacture may be set up that will impair public access to the beach or use of the public beach.
- C. Any applicant obtaining Special Event permit will provide whatever sanitary facilities that the Town believes are reasonably necessary as a result of the number of people being attracted to the Special Event Activities.
- D. The permit will specifically describe the facilities being set up and what will be left in place overnight and shall comply with all requirements of the Building Department that pertain to safe installations. Any application for permit must either be signed by the beachfront property owner or have a letter of consent from the beachfront property owner for the applicant seeking the permit.
- E. No sales of any nature may take place on the beach (seaward of the Historic Building Line).

Sec. 22-8.2 RETAINING WALL / WALK WAY MAINTENANCE.

All retaining wall/walkway maintenance activities must be approved by the Town prior to undertaking such maintenance activities.

A. The City Manager or Designee may require modifications to the retaining wall/walkway maintenance activities to ensure that such activities do constitute property maintenance activities and do not damage dunes and/or dune vegetation.

B. If the City Manager or Designee issues a permit for retaining wall/walkway maintenance activities, any and all sand that will be moved and/or removed from the designated walkways and/or retaining walls must be used to establish and/or enhance the foredune line. The City Manager or

Designee will work with the owner, owner's representative and/or permittee to determine the placement of the sand.

Sec. 22-8.3 VEHICLE ACCESS.

The Town of South Padre Island prohibits vehicular access to the public beaches, except for public safety, emergency vehicles, beach maintenance equipment, and permitted vehicles. The City Manager or Designee may permit vehicle access to the beach in coordination with permitted construction and/or property maintenance activities; however, a separate vehicle access permit and fee will be required.

Sec. 22-8.4 PROPERTY MAINTENANCE.

The Town must approve all property maintenance activities East of the Dune Protection line prior to undertaking such activities. If the City Manager or Designee determines that the activity conforms to the requirements as set forth in Section 22-8 above, then the City Manager or Designee may issue a permit for the property maintenance activities. The City Manager or Designee may require modifications to the property maintenance activities to ensure that such activities conform to the requirements.

Sec. 22-9 TOWN SPONSORED DUNE RIDGE CONSTRUCTION PERMITS.

A. The Town endorses the concept of Town-sponsored activities to alter existing dune shape and size where a complete dune ridge construction plan has been reviewed and approved by the Town. In the event that a specific property owner wishes to alter dunes seaward of their retaining wall, that property owner may present a plan to Town staff that includes the pertinent items and information as necessary to completely understand and review the application. Once complete, staff will forward the plan to the Beach and Dune Task Force, who will in turn provide a recommendation to the Board of Aldermen for review and consideration. The Board of Aldermen will determine if the Town wishes to approve and sponsor such activity.

B. The Town may approve and/or sponsor dune ridge construction activities only if it finds as a fact, after a full investigation, that the particular project as proposed, meets the criteria below. Failure to meet any one of these criteria will result in a finding of material weakening or material damage and the Town shall not approve the application for the dune ridge construction activity as proposed.

- (1) the height of the existing dune(s) is/are greater than fifteen feet (15') above sea level;
- (2) an affirmative demonstration can be made that substantial dunes would likely form naturally in the area of the proposed dune ridge construction project;
- (3) the project demonstrates equal or better protection with the proposed dune ridge construction plan;

- (4) the adjacent littoral property owner(s) provide written consent for the proposed dune ridge construction project;
- (5) the adjacent littoral property is in compliance with previously issued and approved Beach and Dune permits;
- (6) the Town shall ensure that all sand seaward of the Historic Building Line (or in the case of Lots 1, 2, 3 & 4 of Block 156, PB X, seaward of the retaining wall) remains in the beach/dune system;
- (7) the height of the altered dunes seaward of the Historic Building Line (or in the case of Lots 1, 2, 3 & 4 of Block 156, PB X, seaward of the retaining wall) can be no lower than ten feet (10') above sea level;
- (8) the altered dune(s) must be vegetated with indigenous dune vegetation and watered to stabilize the dune(s); and
- (9) the project shall not restrict or interfere with the public's access to the beach or use of the beach at normal high tide.

C. If the Board of Aldermen approve and sponsor such activity, the Town will forward the plan, with appropriate and pertinent information and the expected time frame from beginning of the project to completion, to the General Land Office and the Office of the Attorney General for their review and approval. These state agencies shall have fifteen (15) working days from receipt of the proposed dune ridge construction application to review, and provide comments to the Town.

Sec. 22-10 BEACH & DUNE PROTECTION PERMITS

For all other construction activities East of the Dune Protection Line, or any activity that impacts dunes and/or dune vegetation within the Dune Protection area not already addressed by the permits mentioned in the preceding Sections, an application for a Beach and Dune Protection permit will be required.

A. Staff will review any submitted application within a minimum of ten (10) working days to determine its completeness. A Beach and Dune application shall contain the items and information set forth in 31 TAC §15.3(s)(4). [18 Tex Reg. 661, starting at 696]

B. If the Beach and Dune application is determined to be complete, the staff shall forward the application and the development plan to the General Land Office and the Attorney General no less than ten (10) working days prior to acting on the development plan. The General Land office and the Attorney General may submit comments on the proposed construction to the Town of South Padre Island.

C. After reviewing the application for completeness, the City Manager or Designee shall forward the application to the Beach and Dune Task Force. The Task Force shall review the application and make recommendations to the Board of Aldermen on all Beach and Dune Protection Permit requests. The Task Force shall have up to six (6) weeks to review permit applications and

forward a recommendation to the Board of Aldermen. The Board of Aldermen shall grant or deny a permit within four (4) weeks of receiving a recommendation from the Task Force. The Board of Aldermen may make modifications to and/or overturn a recommendation of the Task Force with a majority vote of the Board of Aldermen.

D. The Town may approve a permit application only if it finds as a fact, after a full investigation that the particular conduct proposed will not materially weaken any dune or materially damage dune vegetation or reduce the effectiveness of any dune as a means of protection against erosion and high wind and water. In making the finding as to whether such material weakening or material damage will occur, the Town shall use the following technical standards. Failure to meet any one of these standards which is not adequately mitigated as provided for herein will result in a finding of material weakening or material damage and the Town shall not approve the application for the construction as proposed.

- (1) The activity shall not result in the potential for increased flood damage to the proposed construction site or adjacent property.
- (2) The activity shall not result in runoff or drainage patterns that aggravate erosion on or off the site.
- (3) The activity shall not result in significant changes to dune hydrology.
- (4) The activity shall not disturb unique flora or fauna or result in adverse effects on dune complexes or dune vegetation.
- (5) The activity shall not significantly increase the potential for washovers or blowouts to occur.

E. The Town shall consider the following items and information when determining whether to grant a permit:

- (1) All comments submitted to the Town by the General Land Office and the Office of the Attorney General;
- (2) Cumulative and indirect effects of the proposed construction on all dunes and dune vegetation within critical dune areas or seaward of a dune protection line;
- (3) Cumulative and indirect effects of other activities on dunes and dune vegetation located on the proposed construction site;
- (4) The pre-construction type, height, width, slope, volume, and continuity of the dunes, the pre-construction condition of the dunes, the type of dune vegetation, and percent of vegetation cover on the site;

- (5) The local historic erosion rate as determined by the University of Texas at Austin, Bureau of Economic Geology, and whether the proposed construction may alter dunes and dune vegetation in a manner that may aggravate erosion;
- (6) The applicant's mitigation plan for any unavoidable adverse effects on dunes and dune vegetation and the effectiveness, feasibility, and desirability of any proposed dune reconstruction and revegetation;
- (7) The impacts on the natural drainage patterns of the site and adjacent property;
- (8) Any significant environmental features of the potentially affected dunes and dune vegetation such as their value and function as floral or fauna habitat or any other benefits the dune and dune vegetation provide to other natural resources;
- (9) Wind and storm patterns including a history of washover patterns;
- (10) Location of the site on the flood insurance rate map;
- (11) Success rates of dune stabilization projects in the area.
- (12) Mitigation: The Town shall strive to balance the objective of dune protection and preservation while recognizing a property owner's right to reasonable development of private property. The permit application review process shall consider mitigation proposals or options to reduce the disturbance and/or loss of dune(s) if the property owner/applicant can demonstrate that all reasonable efforts to avoid the disturbance and/or loss of dune(s) are impractical. It is recognized and established that the primary focus of dune protection is to protect the foredune area while at the same time desiring to afford reasonable protection of all dunes East of the Dune Protection Line. The mitigation sequence shall be used as a decision-making basis for granting Beach and Dune Protection Permits. Mitigation is an acceptable method to insure the continued stability of the beach. It does allow for the construction of hard structures and surfaces within the permitted area so long as at no time will the structures come in routine contact with wave action. The removal of sand from permitted areas adjacent to dunes and replenishing the beach system is specifically provided for and encouraged. If a sand dune on a lot needs to be moved or leveled for construction, it must be moved and re-constructed East of the Historic Building Line (or in the case of Lots 1, 2, 3 & 4 of Block 156, PB X, seaward of the retaining wall). The mitigation sequence consists of the following steps:
 - a. Avoid damage to dunes, including man-made alteration of dunes or the beach profile, removal or destruction of vegetation, and removal of sand from the dunes. Permits allowing damage to dunes shall only be issued where there is no practicable alternative to the proposed activity, proposed site, or proposed methods for conducting the activity.
 - b. Minimize damage to dunes. If an application for a Beach and Dune Protection permit or beachfront construction certification proves to the city that damage to

dunes and/or dune vegetation is unavoidable, a permit allowing the unavoidable damage may be issued provided that there is a permit condition requiring that the damage shall be minimized to the greatest extent practicable.

- c. Compensate for all damage to dunes. Unavoidable damage to dunes and dune vegetation shall be compensated for by the creation of new dunes, the enhancement of existing dunes, and/or the repair of the damaged dunes as well as the planting of indigenous vegetation. The new, enhanced, and/or repaired dunes shall strive to be superior or equal to the damaged dunes in their ability to protect the community from potential flood damage, to support indigenous flora and fauna, and to protect the adjacent beach from erosion. The creation of new dunes as described by Dr. Morton in front of hard structures shall be 10 feet to 12 feet (above sea level) and 75 feet to 100 feet in width or consistent with a plan approved by the Town of South Padre Island. A property owner may be authorized to use plants other than native plants to enhance the stability of newly created dunes.
- d. Compensation efforts shall be continuous and concurrent with the construction until the new, enhanced and/or repaired dunes and dune vegetation is equal or superior to the damaged dune and dune vegetation. However, in no event shall the compensation process take more than two years. After two years, the permittee shall be liable for penalties if compensation is incomplete, unless natural causes have prevented the same.

F. Unless otherwise specified within the permit and approved by the Board of Aldermen, Beach and Dune Protection Permits expire after two (2) years, at which time the applicant will need to reapply if the activity has not been completed.

Sec. 22-10.1 BEACH & DUNE PROTECTION PERMITTING PROCESS.

Any applicant for a Beach and Dune Protection Permit shall be subject to the following review requirements to determine if said activities affect adversely public access to and use of the public beach, and no permit shall be issued unless all of the review requirements have been met;

A. The Town shall review the proposed development plan and the General Land Office's comments and the Attorney General's comments or other information it considers useful to determine consistency with the Beach Access and Use Plan.

B. Any development of property seaward of the Dune Protection line, including but not limited to areas adjoining a designated beach access area, must demonstrate that such development shall not interfere with and/or diminish public beach access, public beach use and/or public parking.

C. If the proposed construction is recommended to be permitted by the Town of South Padre Island, the application shall also be reviewed for the compliance with the Beach Access and Use Plan and if the proposed activity will affect adversely public access to and use of the public beach.

D. The Town of South Padre Island, after considering all appropriate information, shall make

the determination and shall certify that the construction as proposed either is consistent or inconsistent with the Beach Access and Use Plan, in which case the Town of South Padre Island must specify how the construction is inconsistent with the Plan or how it will affect adversely public access to, and use of, the public beach.

E. The Town of South Padre Island may include in the permit any reasonable terms and conditions it finds necessary to assure adequate public beach access and use rights consistent with Chapter 61 of the Texas Natural Resources Code. If the proposed activity will impair existing beach access, then the applicant must provide equivalent or better access.

F. There shall be no construction or erection of a permanent structure seaward (East) of the Historic Building Line as depicted on the Map on file with the Public Works Department of the Town of South Padre Island, except for that area designated in the survey labeled "Exhibit B" for Lots 1, 2, 3, & 4 of Block 156 Padre Beach Subdivision, Section X.

Sec. 22-11. COMPLIANCE WITH OTHER LAWS.

A. Permits may not be issued if the proposed activity is determined to be in violation of Chapters 61 and/or 63 of the Natural Resources Code or any other state, local and federal laws related to the requirements of the Dune Protection Act and Open Beaches Act.

B. Permits may not be issued if the proposed activity is determined to be in violation of the GLO beach access/dune protection rules (31 TAC §§15.1 - 15.10), except as may be authorized by the Comprehensive Beach Management Plan of the Town provided for in this Chapter.

C. A violation of any law(s) related to the requirements of the Dune Protection Act and Open Beaches Act is a violation of this Chapter.

Sec. 22-12. ADMINISTRATIVE RECORD.

A. The Town shall compile and maintain an administrative record which demonstrates the basis for each final decision made regarding the issuance of permits pursuant to this Chapter. The administrative record shall include copies of the following:

- (1) All materials the Town received from the applicant as part of or regarding the permit application.
- (2) The transcripts, if any, or the minutes and/or tape of the Town's meeting(s) during which a final decision regarding the permit was made; and
- (3) All comments received by the Town regarding the permit, if any.

B. The Town shall keep the administrative record for a minimum of three years from the date of a final decision on a permit. The Town shall send to the General Land Office or the Office of the Attorney General, upon request by either agency, a copy of those portions of the administrative record that were not originally sent to those agencies for permit application review and comment. The record must be received by the appropriate agency no later than 10 working days after the Town receives the

request. The state agency reviewing the administrative record shall notify the appropriate permittee of the request for a copy of the administrative record from the Town. Upon request of the permittee, the Town shall provide to the permittee copies of any materials in the administrative record regarding the permit that were not submitted to the Town by the permittee (i.e. the permit application) or given to the permittee by the Town (i.e. the permit).

Sec. 22-13. BUILDING PERMIT REQUIRED.

If a permit is granted pursuant to this Chapter, the applicant must also obtain a Building permit from the Town of South Padre Island for the proposed activity subject to compliance with all other ordinances and codes of the Town, including, but not limited to the Master Flood Hazard Prevention Ordinance.

Sec. 22-14. VOIDABLE PERMITS.

Any permit issued by the Town under this Chapter shall be voidable under the following circumstances:

A. The permit is inconsistent with this Chapter or with State law at the time the Permit was issued.

B. A material change occurs after the permit is issued.

C. A permittee fails to disclose any material fact in the application.

D. The Town shall require that a permittee apply for a new permit in the event of any material changes. Material changes include human or natural conditions that have adversely affected dunes, dune vegetation, or beach access and use that either:

(1) did not exist at the time the permittee prepared the original permit application;
or

(2) were not considered by the Town making the permitting decision because the permittee failed to provide information regarding the site condition in the original application for a permit.

E. A permit automatically terminates in the event the construction comes to lie within the boundaries of the public beach by artificial means or by action of storm, wind, water, or other naturally influenced causes. Nothing in the permit shall be construed to authorize the construction, repair, or maintenance of any construction within the boundaries of the public beach at any time.

Sec. 22-15. BEACH ACCESS AND USE PLAN.

A. The Town of South Padre Island shall utilize all dedicated street right-of-ways abutting the Gulf of Mexico for public beach access. The Town shall endeavor to enhance public beach access through the utilization of twenty-four (24) street cul-de-sacs along the Town beaches, and through the dedication of private land and/or the acquisition of private land for purposes of providing public beach

access. The Board of Aldermen may provide through the course of budgeting the Towns financial resources, funds to improve and/or enhance public beach access points or public recreational facilities. The Town may build or require dune walkovers for beach access whenever practicable.

B. The Town's Beach Access plan is contained in the Town's comprehensive beach management plan: *The Town of South Padre Island's Dune Protection, Beach Access, and Beach Renourishment Plan.*

Sec. 22-15.1 SIGNAGE.

The Town of South Padre Island shall provide beach access signs and will adopt uniform signage requirements as may be required by any State or Federal regulations.

Sec. 22-16. APPEAL FROM DECISION OF THE BOARD OF ALDERMEN

Any person aggrieved by a decision of the Board of Aldermen may present to any District Court in Cameron County, Texas a duly verified petition, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court no later than the 20th day after the day on which the Board renders the decision.

Sec. 22-17. ACTS PROHIBITED.

It shall be unlawful for any person to do any of the following acts:

- A. To undertake any construction activity East of the Dune Protection Line without a Beach & Dune Permit.
- B. To undertake any Retaining wall / Walkway maintenance activities without a permit.
- C. To violate conditions of any permit issued under this ordinance.
- D. To remove sand from the Beach system within the Town located East of the Dune Protection line.
- E. To remove sand, dirt or earthen materials from the Town limits unless the same is contaminated.
- F. The construction of seawalls.
- G. To violate any other provisions of this ordinance.

Sec. 22-18. PENALTIES

Any person convicted of a violation of any provision of this Chapter shall be fined in an amount not to exceed Five Hundred Dollars (\$500.00) as provided by Sec. 21-1 of Chapter 22 of the Code of Ordinances and each day that the violation continues shall be a separate violation.

Sec. 22-19. APPROVAL.

Pursuant to 31 TAC §15.3(o) of the General Land Office Beach/Dune Rules, which allows local governments to amend their Beach/Dune Plan in a manner consistent with the requirements of the Open Beaches Act, Dune Protection Act, and 31 TAC §§15.1-15.10 of the beach/dune rules, the Town of South Padre Island formally submits this amended and revised ***Dune Protection, Beach Access, and Beach Renourishment Plan*** with attached revised local implementing provisions for review and approval.

The prior Comprehensive Beach Management Plan that addressed dune protection, beach access and beach nourishment, and which the Town Board of Aldermen adopted by Ordinance No.161C, dated September 1994, is hereby replaced and superceded by this ***Dune Protection, Beach Renourishment, and Access Plan*** dated May 7, 2003 and is hereby approved and incorporated herein for all purposes.

The Town has submitted this Ordinance as amended (Chapter 22 of the Code of Ordinances of the Town of South Padre Island) to the General Land Office and the Office of the Attorney General pursuant to Chapters 61 and 63 of the Natural Resources Code and rules enacted pursuant thereto.



DEWEY P. CASHWELL JR.

CITY MANAGER

P.O. BOX 3410

SO. PADRE ISLAND, TEXAS 78597

(956) 761-6456

(956) 761-7561 FAX

E-MAIL: dcashwell@townspi.com

May 16, 2005

Eddie R. Fisher, Director
Coastal Stewardship Division
Coastal Resources Program Area
Texas General Land Office
P. O. Box 12873
Austin, Texas 78711-2873

Re: Action on Town of South Padre Island Dune Protection, Beach Renourishment, and Beach Access Plan Implementing Provision to Allow an Exception to Construction Seaward of the Historic Building Line

Dear Mr. Fisher,

Attached is documentation which reflects the fact that the Board of Aldermen of the Town of South Padre Island, acting in regular session on May 4, 2005, approved amendment to Chapter 22 of the Town's Code of Ordinances. This action resulted in amendments to our Dune Protection, Beach Renourishment, and Beach Access Plan, (Plan) in accordance with those recommended by you and your staff in your e-mail message to me of April 12, 2005. You and your technical and legal staff will see that all references to "public use of the beach" have been stricken from the Plan language, and that the new revised version of the Plan has been adopted by Ordinance as required, by way of Ordinance No. 05-07, also attached. Hopefully this action will clear the way for final approval and certification by the General Land Office of our Plan, as you have noted that the other portion of the plan amendment has been found to be consistent with state law.

We would be extremely grateful for your soonest possible action and notification on this matter, as this issue has been pending for quite some time and is of serious and immediate interest to the property owner involved. Thank you again for your able assistance and I look forward to hearing from you at your earliest convenience.

Sincerely,

Dewey P. Cashwell Jr.
City Manager

RECEIVED

MAY 18 2005

GENERAL LAND OFFICE

